



COMMONWEALTH of VIRGINIA

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Summary and Response to Public Comment on Water Quality Improvement Fund Grant Guidance

September 2005

Comments Received From:

Chesapeake Bay Foundation (CBF)
Town of Warrenton
Virginia Coastal Program, DEQ
Hampton Roads Planning District Commission (HRPDC)
James River Association (JRA)
Loudon County Department of Planning
Loudon County Health Department
Town of Orange
Virginia Association of Municipal Wastewater Agencies (VAMWA)
Virginia Agribusiness Council (AGRIBUSINESS)
National Council for Public - Private Partnerships (NCPPP)
Virginia Department of Mines, Minerals and Energy (DMME)

Comments and Response - Nonpoint Source Grant Guidance:
See Page 8

Comments and Response - Point Source Grant Guidance:

1. Comment: "Chesapeake Bay Watershed Nutrient Credit Exchange Program Language; The proposed guidelines for the Virginia Water Quality Improvement Fund should be modified to address and reflect the tenor of this newly enacted law upon completion of implementing regulations in 2006" (CBF)

Response: As per §10.1-2128.A. of the Water Quality Improvement Act (WQIA), language allowing for the Water Quality Improvement Fund (WQIF) to receive money

from other sources already exists. In interpreting the comment, we have revised Part VI to further reflect the fact that the WQIF may receive payments as a result of the acquisition of nutrient allocations, per §62.1-44.19:15.C. of the Chesapeake Bay Watershed Nutrient Credit Exchange Program.

2. Comment: Under Section 10.1-2131(C) of the Act, the grant of funds for projects other than nutrient removal can only be made subsequent to the implementation of the tributary strategy plans. We recommend rewriting the sentence to state: “Funding for projects other than nutrient removal within the Chesapeake Bay Watershed is permitted only after the implementation of the tributary strategy plans and the Director of the DEQ determines that there is sufficient funding available for substantial and continuing progress in implementing the tributary strategies.” (CBF)

Response: Implementing the point source elements of the VA tributary strategies have already been identified as the prioritized use of the WQIF. It is DEQ’s opinion that there is no need to further restrict the Director’s discretion in awarding grants beyond the determination that sufficient funding is available for substantial and continued progress in implementing the tributary strategy plans.

3. Section 10.1-2131(E) directs that the state cost share percentage for point source nutrient removal shall be determined by the ratio of annual sewer charges to reasonable sewer costs. Two organizations recommended that the guidelines establish a definitive method for the computation of annual sewer charges such that these charges are consistent between communities (CBF, Town of Warrenton).

Response: Because the sewer charges are likely to vary from one locality to another (just like the Median Household Income), we intend to request the annual average household sewer charge be provided as part of each application for financial assistance. This is the most equitable way to review site-specific data and will enable the local government to better control their participation and rate structure.

4. Section B Point Source Projects, IV. Allowable Costs. While we understand the benefit to those that have initiated system upgrades prior to this program, going back to year 2000 runs the risk of depleting the funding without any new design/construction efforts (Town of Warrenton).

Response: The WQIF is a reimbursement program and grant payments are made for costs incurred on an approved project. Funds have been paid out of the WQIF point source program since its inception for work completed by the grantee prior to grant award, in accordance with the WQIA (see §10.1-2131.C.: “*The cost of the design and installation of biological nutrient removal facilities or other nutrient removal technology at publicly owned treatment works meeting the nutrient reduction goal in an applicable tributary strategy plan and incurred prior to the execution of a grant agreement is eligible for reimbursement from the Fund provided the grant is made pursuant to an*

executed agreement consistent with the provisions of this chapter.”) The proposed guideline revisions are consistent with previous grant awards (some involved no new construction), and are intended to avoid penalizing any plant owner who made nutrient reduction improvements during the period when grant funds were unavailable. Earlier grants were made for costs incurred after the 1987 Bay Agreement was signed, which established the original 40% nutrient reduction goal. The proposed guidelines revise this cut-off to the date when the Chesapeake 2000 Agreement was signed, which established new, more challenging nutrient reduction goals for the Bay tributaries and has led to more stringent treatment requirements at the point sources.

5. It is recognized that the primary purpose of the fund is to assist in reducing nutrient and sediment pollution of the Chesapeake Bay and its Tributaries in order to reduce or eliminate categorization of these waters as “impaired.” However, projects involving rehabilitation, maintenance and enhancement of the entire wastewater system, including the collection system should also be eligible for funding. Activities of this type enhance the ability of the wastewater treatment system to ensure that discharges of treated wastewater achieve water quality requirements (HRPDC).

Response: As per §10.1-2131.C. of the WQIA, *“the Director of DEQ shall not authorize the distribution of grants from the Fund for purposes other than financing the cost of design and installation of biological nutrient removal facilities or other nutrient removal technology at publicly owned treatment works until such time as all tributary strategy plans are developed and implemented unless he finds that there exists in the Fund sufficient funds for substantial and continuing progress in implementation of the tributary strategy plans”* (emphasis added). Maintenance and enhancement costs of any sewage treatment works or collection systems are not costs authorized by statute because they are not considered nutrient removal technology.

6. It is unclear where homes with straight pipes to a stream would fall and it is recommended that more clarification be provided. If they discharge officially they are a point source, but private and don’t qualify. If the solution was a cluster owned by a municipality it would appear they could be eligible if the municipality applied. If the solution was an onsite system it is not clear if they would be eligible. If the solution was a new onsite system owned by the homeowner they may not be eligible. The problem and solution could be any of the above and it is recommended that problems from individual homes regardless of the solution be classified under Nonpoint Source Projects (Loudoun Co. Health Dept).

Response: As per §10.1-2131.B. of the WQIA, *“the Director of the Department of Environmental Quality shall enter into grant agreements with all facilities designated as significant dischargers that apply for grants”*. Thus, individually, these homes do not qualify for point source WQIF grant funds. Similar “cluster” projects - for which the application for financial assistance was made by a public entity (i.e., County or PDC) - have received funds through both the State Revolving Loan program and the WQIF Nonpoint Source program.

7. The proposed guidelines as now written do not capture the situation which many small localities find themselves in with regard to the new proposed wastewater standards. The cost of the new facilities will be prohibitive without substantial aid in the form of grants from either or both the State and Federal governments. The current guidelines do not reflect this hardship situation in the form of a pool of money available for small communities under consent orders to build facilities they cannot reasonably afford. Our request is to change the proposed guidelines to provide for a specific pool of actual funds for localities under a compliance obligation to construction nutrient removal technology and who can demonstrate that the financial viability of the project is dependent upon the WQIF. (Town of Orange)

Response: As provided for by §10.1-2131.E. of the WQIA, in communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.80, the Director shall authorize grants in the amount of 75% of the costs of the design and installation of biological nutrient removal facilities or other nutrient removal technology. Also, the Director may approve a point source grant application request that exceeds the authorized grant amount outlined in §10.1-2131.E. of the Act, and described in Section F. 1-4. Whenever a grant application exceeds the authorized grant amount outlined above, or when there is no stated limitation on the amount of the grant, the Director shall consider the comparative revenue capacity, revenue efforts and fiscal stress as reported by the Commission on Local Government. We do not believe it is necessary to set aside a pool of funds given the discretion in the Act that allows exceptions to the limits on grants. In addition, setting aside funds, as the commenter wishes, is not authorized by the Act.

8. We are also concerned with the section of the proposed guidelines which says, "If the original source of funding for the project was the State Revolving Loan Fund (RLF), the WQIF grant shall be applied to the principal of any outstanding balance of the loan." It is not clear that if funds come from the both RLF and the WQIF, must the WQIF grant funds first be used to pay the RLF loan. (Town of Orange)

Response: This clause applies to any RLF money which was previously borrowed to construct nutrient reduction facilities and the WQIF reimbursement would be used to reduce the principal on the existing RLF loan. It does not apply to new design/construction projects being jointly funded by the RLF and WQIF programs. The language in the relevant section of the guidance has been revised to clarify this point.

9. Clarify Applicability of Holdover Prioritization Clause. The other prioritization criteria mentioned in 10.1-2129 B 3 would apply only to projects other than nutrient control for significant dischargers. These other projects are referenced and authorized by 10.1-2131 C (last paragraph). We would point out that nutrient criteria currently under development by the SWCB and DEQ have the potential to

lead to new nutrient control requirements *outside* the Chesapeake Bay watershed that would have funding needs on a similar scale as the Bay cleanup. (VAMWA)

Response: Part II of the Point Source section has been revised to explicitly state that the Director shall sign WQIF grant agreements with significant dischargers in the Bay watershed that apply for grants for the design and installation of nutrient removal technology. Funding for projects other than nutrient removal within the Chesapeake Bay Watershed is permitted if the Director of the DEQ determines that there is sufficient funding available for substantial and continuing progress in implementing the tributary strategies (§10.1-2131.C. of the WQIA). Such eligible projects must clearly demonstrate the likelihood of achieving measurable and specific water quality improvements.

10. Because reimbursement of eligible costs is contingent on appropriations, it is difficult or impossible to rely on this funding for financing purposes. While some communities will have the strength to manage this contingency, others that are dependent on the WQIF for the financial viability of their project (e.g., bond capacity limitations or affordable sewer rate limitations) will presumably have an especially difficult time arranging financing to complete the desired projects. This problem may be mitigated through phasing or sequencing of projects under an appropriate compliance schedule. (VAMWA)

Response: We acknowledge that forecasting/budgeting for financial purposes maybe difficult if additional funds are not appropriated and that may impact localities differently depending on the individual fiscal stress. WQIF grants include specific language relative to budget projections and the potential shortfalls in the state budget. Additionally, not every facility on the Significant Discharger list will wish to phase construction and the previous interest in technical assistance grants for Basis of Design and Interim Optimization Reports may actually suggest the opposite, as owners with multiple facilities may chose to aggregate their assigned loads. An opportunity to address this issue is available through the Nutrient Credit Exchange Program. Compliance Plans that will be developed under the Program may consider hardship localities in the prioritization of projects within each river basin and can reflect the interim use of SRF money where necessary.

11. Provide for pro rata distribution in event of a shortfall. Until the above-referenced integration problem is resolved, VAMWA favors application of a pro rata approach to reimbursement of eligible costs in the event of a shortfall of WQIF funds (similar to DEQ's approach in the past). (VAMWA)

Response: The approach to forecast future funding needs and develop a prorated method for grant disbursement has been demonstrated as successful in the past. However, as a result of the comment, Part V (Reimbursement) has been revised.

12. The point source concentration limit language should be changed to require maximum practical utilization of capital facilities to achieve design (or modeled)

concentrations achievable without employment of supplemental carbon addition. (VAMWA).

Response: Performance expectations under the WQIA calls for proper long-term operation, monitoring and maintenance of funded projects, including design and performance criteria. These projects are partially funded by the Commonwealth in order to achieve the water quality objectives of the Tributary Strategies. The concentration limits are included in the grant agreements in order to ensure the Commonwealth's WQIF investment helps to meet these water quality objectives. More specifically, while addition of a supplemental carbon source may be necessary for the denitrification process, use of methanol is not specified anywhere by the WQIA as the only carbon source. It has, however, already been readily incorporated by some BNR level funded projects (such as ASA, PWCSA, Stuarts Draft, and Henrico). With respect to the Compliance Strategy Plan for point sources, perhaps the Nutrient Credit Exchange Association should investigate alternative sources of carbon (as some authorities are already doing); the benefits of proportionate dosing systems; and/or other treatment options.

13. Eliminate double jeopardy clause. We recommend that the grant agreement reference the applicable VPDES permit and associated penalty provisions. At \$32,500 per day, the VPDES penalty exposure is more than sufficient to deter and punish non-compliance. In addition, while we certainly expect to perform nutrient monitoring and report results, this is not necessary as a grant condition. Monitoring and reporting will independently be required by the applicable VPDES permit. Also, annual reports will be required under the Exchange Program. Therefore, page 16, paragraph VI should be deleted. (VAMWA)

Response: As per §10.1-2130 of the WQIA, all WQIF grant agreements shall, at a minimum, also contain provisions that govern design and installation and require proper long-term operation, monitoring and maintenance of funded projects, including design and performance criteria, as well as contractual or stipulated penalties in an amount sufficient to ensure compliance with the agreement (emphasis added). Because the VPDES permit and WQIF grant are implemented via two different programs, the penalty provisions would also be invoked and/or reimbursed via two different programs; penalties for WQIF grants would be used for direct environmental enhancement (i.e., monetary assessments paid to the WQIF can be used for other grant projects), whereas the permit penalties would go to the general fund. The WQIF grant will not require any monitoring beyond what is required by a VPDES permit (which includes nutrient monitoring). In fact, the grant agreements specifically state: "*location, type, and frequency of the monitoring will be conducted, as a minimum, in accordance with the requirements contained in the VPDES Permit. Each sample will be analyzed for total nitrogen using EPA-approved test methods and reported to the Department with the Grantee's monthly Discharge Monitoring Report.*" Additionally, until all VPDES permits are modified or reissued to include requirements for monitoring concentrations, the grant maybe the only direct source for documenting performance.

14. Acknowledge eligibility of effluent reuse. It is expected that reuse of highly treated effluent may be utilized due to its nutrient load reduction benefits as well as other conservation benefits (e.g., water conservation). Given the significant nutrient reduction potential and other benefits of effluent reuse – and the codified policy of the Commonwealth to promote and encourage effluent reuse – we strongly recommend the express recognition of effluent reuse projects in the Guidance. (VAMWA)

Response: Section IV of the Point Source portion of the Guidance provides specific acknowledgement of effluent reuse as an eligible cost component and is quoted as follows: *“As provided in Section 10.1-2131.C. of the Act, the cost for design and installation of biological nutrient removal, state-of-the-art nutrient removal technology, or other nutrient control technology (including recycle/reuse) at publicly owned treatment works meeting the nutrient reduction goal in an approved tributary strategy plan and incurred prior to execution of a grant agreement, is eligible for reimbursement from the WQIF”* (emphasis added).

15. Project Eligibility: don’t prohibit eligibility for funding to facilities that may be operated by a private concern for local government, or that are constructed/developed using the PPEA legislation. (NCPPT)

Response: An applicant that privatizes operation and maintenance, but retains ownership of the facility (and holds the VPDES permit) would, in our view, be eligible for WQIF funding. A publicly owned treatment works that transfers ownership is no longer a POTW, by definition, and would be ineligible for WQIF funds. Language has been revised in paragraph 1 of Section B III. (NCPPT)

16. Use of Financial and Administrative Consultants: eligible costs should include consulting expenses for guidance on procurement process management, methods for innovative financing, and other unique aspects of PPPs.

Response: Under §10.1-2131.C of the Water Quality Improvement Act, the Director of DEQ is prohibited from authorizing grants for purposes other than design and installation of biological nutrient removal facilities or other nutrient removal technology. For grant-eligibility purposes, the use of “pre-design” services in this context is limited to use of a certified professional engineer that is defined in the agreement itself or the use of a laboratory for wastewater analysis – activities directly related to the design and installation of the nutrient control system. Administrative costs, such as preparing applications, financial management, etc., are ineligible for state cost share. The use of “pre-design” allows the most flexibility for the State and applicant to negotiate and incorporate any agreed-to costs, on a case-by-case basis, and a definition would become too restrictive; therefore, there is no change to the guidance in response to this comment.

COMMENTS ON NONPOINT SOURCE GRANT GUIDELINES

1. Chesapeake Bay Watershed Nutrient Credit Exchange Program Language. In April of 2005, the General Assembly enacted the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§62.1-44.19:12 through §62.1-44.19:19) establishing limits on nutrient loads that may be discharged into the Chesapeake Bay watershed. This legislation requires public and private point source dischargers of nitrogen and phosphorus to achieve significant additional reductions of these nutrients to meet the cap load allocations. The law creates a market-based point source nutrient credit trading program that will have significant impacts upon grants from the Virginia Water Quality Improvement Fund. The proposed guidelines for the Virginia Water Quality Improvement Fund should be modified to address and reflect the tenor of this newly enacted law upon completion of implementing regulations in 2006. (CBF)

Response: The nutrient credit exchange legislation allows for payments into the fund and directs utilization of the deposited funds in a specified general manner. A sentence has been added to the Introduction section on page 2 as a first sentence of paragraph 3, which states “Payments into the Water Quality Improvement Fund in accordance with the Chesapeake Bay Watershed Nutrient Exchange Program created under 62.1-44.19:12 shall be utilized in a manner to achieve point or nonpoint source reductions in accordance with the requirements established in the nutrient exchange program in addition to the requirements presented in these guidelines.”

2. Priority For Agricultural Practices. The proposed guidance is inconsistent with Section 10.1-2132(C) of the Act. Under this provision the distribution of grants from the Fund for non-point sources must include “...a priority [for] agricultural practices.” The guidelines do not clearly address this requirement for prioritizing funding requests. At a minimum, the text should clearly indicate the General Assembly’s priority for agricultural non-point source practices within paragraph (I.) of Section A. Specifically, we recommend the insertion of the following language within paragraph (I.): “In distributing non-point source grants, the Director shall give priority to agricultural best management practices.” (CBF)

Response: A sentence has been inserted after the second sentence of Section IV of the nonpoint source section under Distribution of Funds on page 8 which states: “In distributing the nonpoint source WQIF funds, a priority will be given for funding of agricultural practices.”

3. Long Term Grant Agreements. Additionally, CBF applauds the use of long term, multi-year binding contracts, as authorized by §10.1-2130, to secure non-point source grant agreements, as has been done for point source grant agreements. Such contracts will allow the Department of Conservation and Recreation greater flexibility, improved planning, and maximum benefits from the non-point source funds. (CBF)

Response: No change necessary

4. Cross-references. In order to improve the understanding of the guidelines, it would be helpful to correct one cross-reference within the document. Specifically, the second sentence on page 17, Section B, Chapter III, Paragraph II refers to the criteria in Chapter I (B) of Section B, however Chapter I (B) has been reformatted in the drafting process to Chapter I, Paragraph (II) of Section B. (CBF)

Response: Change made.

5. The term “Southern Rivers Watersheds” refers to any part of the state that does not drain into the Bay. This term may be misleading when referring to the Atlantic drainage, particularly along the Eastern Shore (which is not “south” in the state). Perhaps the term “Atlantic Watersheds” could be added and grouped with the Southern Rivers when discussing allocation percentages and priority activities. (Coastal Program)

Response: Definition of Southern Rivers on page 4 to has been amended by adding “including waters draining directly to the Atlantic Ocean.”

6. Under the *Water Quality Initiatives* section, on page 7, the guidance does not say how these projects will be selected. For example, in the *Cooperative NPS Pollution Program Projects with Local Governments* section it states in the second sentence that “these projects, which shall be evaluated on a *competitive basis...*”. Will the Water Quality Initiative projects also be selected through a competitive process? (Coastal Program)

Response: Page 8 of the guidance under IV. Distribution and Application of Funds indicates that a competitive process will be utilized for Water Quality Initiative grants and Cooperative NPS Pollution Projects.

7. The allocation between the four eligible activities is not stated. Can you consider describing the process for those decisions in these guidelines (e.g. will this vary year to year, who will decide those allocations)? (Coastal Program)

Response: Section IV, Distribution and Application of Funds on page 8 indicates that the Department will make these allocations. No change needed.

8. The criteria stated on pages 8 and 9 that will be used to prioritize projects for funding through the *Water Quality Initiatives* and the *Cooperative NPS Pollution Program Projects with Local Governments* put an emphasis on nutrient (nitrogen and phosphorous) reductions and the project cost-effectiveness (referring to the rankings from the CBC report). Based on that, agriculture related projects are likely to rank highest. Local governments have little management responsibility when it comes to agriculture so it seems that there is a disconnect between the

ranking criteria and the description of the types of projects that could be funded through the *Cooperative NPS Pollution Program Projects with Local Governments* program.

The *Cooperative NPS Pollution Program Projects with Local Governments* section lists stormwater management, septic system rehabilitation, urban BMP initiatives, land acquisition and stream buffers as possible eligible activities. The NPS reductions of these activities are not necessarily related to nitrogen and phosphorus and may not be as easily quantifiable as, for example, reduction in nutrients applied to an agriculture field.

It seems that the *Cooperative NPS Pollution Program Projects with Local Governments* section is intended to provide technical assistance to local governments implementing NPS reduction programs, through implementation of the Bay Act or stormwater management programs, for example. Perhaps projects evaluated under this section, should have ranking criteria that more closely reflects the types of activities over which local governments have jurisdiction. (Coastal Program)

Response: Changes to the language in Section V. Criteria for Prioritizing Funding Requests have been made to clarify that the criteria stated on pages 8 and 9 of the guidelines apply to the water quality initiatives and cooperative local projects and are not intended to be limited to agricultural activities. While the water quality initiatives component could include agricultural components, it is expected that the cooperative projects with local governments would be non-agricultural related projects and address other nonpoint source issues including stormwater and other local concerns. The criteria for prioritization, including the language about a priority for total nitrogen and phosphorus reduced by the project, comes directly from the language and requirements in the Act. An additional priority item was added to include “measurable reductions of nonpoint source pollutants including nutrients and sediments” which broadens the types of pollutant reductions that could be considered. As a result, the language in this section was clarified.

9. It appears that the categories of “Water Quality Initiatives” and “Cooperative Nonpoint Source Pollution Program Projects with Local Governments” are designed to address significant concerns of the Commonwealth’s local governments. These include eligibility of urban stormwater management programs, including those operated under the auspices of Municipal Separate Storm Sewer Discharge Permits, those that address sediments, and those that address other water quality impairments. Such projects must be eligible for funding if local governments are to assist in achieving the nutrient and sediment reduction targets of the Tributary Strategies. In addition, it appears that these categories may allow for longer term (more than one year) funding of these critical local government projects. These programs must be considered eligible for funding. (HRPDC)

Response: The cooperative projects with local governments should allow for the funding of stormwater management activities in keeping with the priorities for pollutant reduction and addressing water quality impairments and implementation of tributary strategies.

10. The region's localities believe that the WQIF grant program should provide for a substantially stronger role for local governments in making grant decisions. To address this concern, Section V, Criteria for Prioritizing Funding Requests, should be expanded to include provision for: Local government review of each proposal that may affect the locality to ensure that there is no duplication of effort with locally proposed projects and to ensure that the project is generally consistent with the local government's plans and programs. (HRPDC)

Response: No changes to guidelines recommended. As part of the request for proposals, it has been standard practice to require a letter to be submitted with project proposals that indicates a local government level of support for the project; this practice will continue.

11. Local government prioritization of projects that are proposed for funding within or affecting that locality. It has been suggested that the prioritization should be accomplished in a cooperative fashion at the regional level. (HRPDC)

Response: No changes to guidelines necessary. If multiple project proposals are submitted by a locality, DCR will work with the local governments during the review stage to determine the local governments priority of the potential projects.

12. A grant tracking system, including posting of grant-related information on the web sites of the DEQ, DCR or Secretary of Natural Resources, should be developed. This system should include a means of formally notifying all local governments of which projects were funded and for projects that were not funded some explanation of the reasons for the decision to not fund the project. This system would facilitate long-term improvements in grant projects and their effectiveness by allowing transfer of knowledge and lessons learned throughout the Commonwealth. (HRPDC)

Response: All grant funding decisions will be posted on agency websites. DCR will continue to consult with local governments and local government associations to determine the best approach for addressing the suggestions made in this comment.

13. To ensure that sediment pollution receives appropriate priority along with nutrient pollution for funding in watersheds of sediment impaired waterbodies, JRA suggests the following specific changes to the proposed rules for nonpoint source pollution in Section A.V. Criteria for Prioritizing Funding Requests:

- **Pounds of total nitrogen, pounds of total phosphorus and *tons of sediment* reduced by the project.**
- **Whether the location of the water quality restoration, protection or improvement project or program is within a watershed or subwatershed with documented nutrient *or sediment* loading problems or adopted nutrient *or sediment* reduction goals. (JRA)**

Response: The first four priorities reflect specific language included in the Act. In the guidelines language, the sixth priority includes sediments as an additional pollutant to be considered.

14. With regard to the Nonpoint Source Projects listed in the WQIF Guidelines, County staff agrees that agricultural water pollution reduction measures should be eligible for funding, even though agricultural practices are diminishing in Loudoun County and increasingly being replaced by urban development. Staff requests, however, that the Department of Conservation and Recreation, the agency responsible for managing the distribution of funds, favorably consider grant requests that would reduce existing nutrient pollution sources in impaired stream waters where the grant action could be put into effect in conjunction with proposed residential development. (Loudon County Planning)

Response: No change needed to guidelines. The guidelines for local government projects would allow septic system rehabilitation and other non-agricultural restoration projects.

15. It is unclear where homes with straight pipes to a stream would fall and it is recommended that more clarification be provided. If they discharge officially they are a point source, but private and don't qualify. If the solution was a cluster owned by a municipality it would appear they could be eligible if the municipality applied. If the solution was an onsite system it is not clear if they would be eligible. If the solution was a new onsite system owned by the homeowner they may not be eligible. The problem and solution could be any of the above and it is recommended that problems from individual homes regardless of the solution be classified under Nonpoint Source Projects. (Loudon County Health)

Response: Generally septic system rehabilitation for individual systems has been considered an eligible activity under the guidelines and is included as an eligible project type under local government projects. Onsite systems serving more than one residence have not been traditionally funded with nonpoint source grants and would have to be separately evaluated.

16. The percentage of the grants should be allowed to go to 100% for homeowners where their income will not allow the system to be constructed otherwise. (Loudon County Health)

Response: Modification will be made to the guidance that allows for grants beyond the stated match levels based on specific circumstances.

17. Guidance for water quality issues other than nutrients is weak. It is recommended that both guidance and criteria for prioritizing funding be added for fecal coliform or E-coli levels that exceed the water quality standards for the designated use. (Loudon County Health)

Response: No changes are recommended. Specific priorities are included to address water quality impairments that are caused by bacterial sources.

18. “Other educational entities” not just institutions should be added to those who can receive funding for educational projects. Associations and civic groups can provide such educational resources and meet needs. (Loudon County Health)

Response: The Act defines “individuals” as “any corporation, foundation, association or partnership”; therefore, the organizations cited in the comment would be eligible for funding.

19. We are concerned with an apparent “disconnect” between the Tributary Strategies and WQIF Guidance. The Tributary Strategies currently contain utterly impractical requirements for urban stormwater, a fact that is plainly evident from the fact that urban stormwater costs are estimated at well over half of Virginia’s Bay cleanup costs but, if implemented, would deliver only modest nutrient reductions. This is due to the staggering cost of urban stormwater retrofits. It does not make sense for the Commonwealth’s Tributary Strategies to rely on those retrofits rather than other, more cost-effective nonpoint source controls. The Chesapeake Bay Commission has found, for example, that the six most cost-effective controls are nonpoint source agricultural controls. There are also other urban projects that are more cost-effective than retrofits. If the Tributary Strategies are not changed to utilize more cost-effective nonpoint source controls, then it is only fair that the Commonwealth completely shoulder the staggering cost of the impractical concepts in the current Tributary Strategies. (VAMWA)

Response: No change to the guidelines is needed. A priority for funding is already placed on agricultural activities. Stormwater activities are an eligible activity; however, cost effectiveness will be a consideration.

20. We support the focus of the guidelines on local implementation by the state’s Soil and Water Conservation Districts. It should be recognized, however, that in order to meet the water quality objectives for both the Chesapeake Bay Watershed and the Southern Rivers, additional resources at both the Department of Conservation and Recreation and the Soil and Water Conservation Districts will need to be addressed. (Agribusiness)

Response: No changes needed in the guidelines.

21. Non-point source pollution from abandoned coal mines in southwestern Virginia continues to be an important water quality problem and poses a threat to the special aquatic resources of the Upper Tennessee River basin. Although no other state funded programs specifically address this water quality issue, it seems that Water Quality Initiative Funds (WQIF) would apply. Could projects to reduce sedimentation from abandoned coal mines be added to the WQIF examples given in the second paragraph on page 7 of the guidelines? (DMME)

Response: Suggested change made.

22. Criteria for prioritizing funding projects should also include the following: Whether the location of the water quality restoration project is within a watershed containing varieties of federally listed threatened and endangered aquatic organisms. Whether the location of the water quality restoration project is along a stream segment with a state adopted Total Maximum Daily Load Implementation Plan. (DMME)

Response: We believe that the priority given to water quality impairments is sufficient to address both of these suggestions; therefore, no change needed to the document.